

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of William M. Gavin (Affordable
Home & Apartment Movers) to Operate as
Household Goods Carrier in State of California

Application 04-10-036
(Filed October 29, 2004)

**ASSIGNED COMMISSIONER AND ADMINISTRATIVE
LAW JUDGE'S RULING AND SCOPING MEMO**

Pursuant to Rules 6(a)(3) and 6.3 of the Rules of Practice and Procedure, this ruling sets the scope of the proceeding and establishes a schedule following the January 6, 2005 prehearing conference (PHC).

Background

William Gavin filed this application for authority to operate a new household goods company, Affordable Home & Apartment Movers. On November 29, 2004, the Consumer Protection and Safety Division (CPSD) filed a protest requesting that the Commission reject and deny this application until Gavin complies with Decision (D.) 02-08-052, as modified. Gavin requests hearings. CPSD states hearings are not necessary because there are no disputed facts.

In D.02-08-052, resulting from a Commission investigation into the operations of Gavin's prior company, Affordable Apartment Movers (AAM), the Commission ordered AAM to make reparations to customers within 60 days and to pay a fine of \$26,000 within 180 days. The Commission further ordered that all but \$6,500 of the fine would be suspended if AAM submitted a statement to

CPSD that it had made the reparations. AAM failed to submit the statement to CPSD and failed to pay the fine. In April 2003, CPSD petitioned to modify D.02-08-052 to impose further sanctions for failure to comply with that decision. AAM failed to respond to the petition. D.03-08-011 granted CPSD's petition, reinstated the fine of \$26,000, permanently revoked AAM's operating authority with prejudice, and decided that "[a]ny request for new operating authority by AAM or its principals must be made via the formal application process and must demonstrate compliance with D.02-08-052, as modified."

A PHC was held on January 6, 2005 to determine the scope of the proceeding and need for hearings. At the PHC, the parties reported that they had met and conferred, as ordered in the December 7, 2004 Administrative Law Judge (ALJ) ruling, and requested the opportunity to continue discussions. The parties anticipated that further discussions could resolve compliance issues and address Affordable Home & Apartment Movers' fitness to operate as a household goods carrier. The parties agreed there were no disputed facts and no need for hearings.

At the PHC, the ALJ directed that the parties file a plan for compliance with D.02-08-052, as modified, on or before March 11, 2005. The plan for compliance shall include a timetable and may contain CPSD's determination of Affordable Home & Apartment Movers' fitness to operate as a household goods carrier. If the parties recommend a plan inconsistent with D.02-08-052, as modified, the parties shall address the reasonableness of modifying that decision.

Scope of the Proceeding

The main issue to be resolved in this proceeding is whether Gavin has complied with D.02-08-052, as modified. If Gavin complies with D.02-08-052, as

modified, the Commission will be able to consider Gavin's fitness to operate as a household goods carrier.

Category of Proceeding

This application was preliminary categorized as ratesetting in Resolution ALJ 176-3142 on November 19, 2004. Although ratesetting traditionally applies to licensing matters such as this application, this proceeding also addresses compliance with decisions issued in Investigation (I.) 01-11-037, an adjudicatory proceeding. To most efficiently resolve the issues presented in this application, we will rely on the record developed in I.01-11-037, as permitted under Rule 72. This ruling confirms the ratesetting categorization; however, because we continue to examine compliance with the Commission's rules and regulations in this application proceeding, the prohibition on ex parte communications found in Rule 7(b) shall apply. Anyone who disagrees with this categorization must file an appeal of the categorization no later than 10 days after the date of this ruling. (See rule 6.4.)

It is expected that (as shown in the schedule below) this proceeding will be completed by the middle of this year in order to resolve the applicant's compliance status. In any event, the proceeding will be completed well within 18 months from the filing of Gavin's application.

Schedule

The schedule in this proceeding is as follows:

Compliance plan filed	March 11, 2005
Draft decision issued	Within 60 days after compliance with D.02-08-052, as modified
Decision adopted by Commission	Within 30 days after draft decision issued

IT IS RULED that:

1. The parties shall file a plan for compliance on or before March 11, 2005 as set forth herein.
2. The scope of the proceeding is as set forth herein.
3. The schedule for this proceeding is as set forth herein.
4. Ex Parte communications are prohibited.

Dated January 14, 2005, at San Francisco, California.

/s/ Janice Grau
Janice Grau
Administrative Law Judge

/s/ Geoffrey F. Brown
Geoffrey F. Brown
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner and Administrative Law Judge's Ruling and Scoping Memo on all parties of record in this proceeding or their attorneys of record.

Dated January 14, 2005, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, *e.g.*, sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.